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## CRIME AND PUNISHMENT IN NEW YORK.

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IT is not the purpose of this paper to present the statistics of crime in the city of New York, but to exhibit some of the principal causes of crime which are here in operation, and the inadequacy of the administration of justice to meet the case. A large city presents the greatest advantages and incitements to deeds of fraud, sensuality, and violence, by the denseness of the population and the facilities of concealment. Temptation is multiplied and the risk of exposure diminished from the same cause. The latter fact draws evil characters to a large city, and the former manufactures evil characters from among the citizens. But New York is not only a large city, but it is a sea-port, and the principal gate of immigration to the United States. Men of every clime throng its streets, and nearly one-half of its population has no personal or inherited interest in American institutions. The worst elements of European society are constantly brought into this civic caldron,—in many cases, the emptyings of alms-houses and prisons. It is no light task to meet this onset of depravity with the firm hand of order, and make this heterogeneous mass take on any assimilation to the general constitution of American life. Too much has been said thoughtlessly of the misgovernment of this metropolitan city, where the critics have not considered the peculiar obstacles to social order to which we have referred. The real wonder is that New York is so well governed,—that, amid all the antagonisms to public peace which are found in it, it is, on the whole, an orderly city, and offers attractions for residence beyond any other city in the Union. There is far more rowdyism and drunken rioting in Glasgow and Liverpool than in New York; and the streets of New York, which have formed the theme of so much indignation because of their unclean condition, are pure and spotless in comparison with the streets of the cities of Southern Europe. It has become

popular to condemn New York, and to call it a modern Sodom ; but nowhere in the world are so many and so mighty agencies in active operation for the material and moral welfare of the community. Churches, hospitals, charity homes, schools, libraries, galleries, benevolent societies, and other forms of gratuitous help to the comfort and welfare of the city, abound, and a general liberality toward all measures tending to elevate the tone of society is very conspicuous. It is, then, with no cynical feeling that we endeavor, in this article, to show where effort is still lacking, and where remedies ought speedily to be applied.

*First.* The first cause of crime that any unprejudiced observer will note, if he take any period and examine its police and court records, is the unrestricted sale of distilled liquors. If we omit the regular hotels that actually entertain travelers, we find eight thousand places in New York City where whisky is sold by the drink. In full accord with this fact, we find another, that five-sixths of the inmates of our almshouses and prisons were brought to their present distress by whisky. We notice daily, in the journals, accounts of fights and stabbings in the liquor-saloons, and we read how the murderer first maddens himself with whisky at one of these places, and then is able to use the knife or club. These facts cannot be disputed, and are not disputed. Now, these eight thousand drinking-saloons have no legal right to exist. The actual hotel is the only place where spirituous liquors can be legally sold by the drink. The innocent reader will indignantly ask, "Why, then, are these eight thousand permitted to continue as fountains of moral poison to the city ?" The answer reveals a second cause of crime.

*Second.* The laws cannot be enforced. The excise commissioners have assumed the right to constitute any saloon a hotel. For three years past the citizens have been amused at the practical joke enacted throughout the city, where the proprietor of a drinking-shop fifteen feet square has put up his " Hotel " sign. Expostulation has been useless ; entreaty has been despised ; and legal proceedings against the commissioners have proved (through the intricacies of law processes and the admirable assistance these give to rogues) utterly unavailing. If the commissioners wished five dollars a saloon for the favor of a license, they could readily get it and make forty thousand dollars a year, and find this a far better business than attempting to enforce the law. The non-enforcement of law teaches a people to think lightly of law. A

loose execution of the laws will as surely increase the amount of law-breaking as water will seek its level. The restraint of law is in the knowledge of its certain execution. Remove that knowledge,—or, rather, replace it with a knowledge that the law will not be executed,—and law is worse than no law, for it not only permits crime, but it teaches contempt of all restraining statutes.

*Third.* The apathy of the public is a very large element in this sad condition of things. No one can doubt that the men of New York City who believe in law and order are a great majority. Their own pecuniary interests would make them so believe, even if they had no higher source of inspiration. This majority could cause the laws to be enforced instantly, if they should speak the word. But they will not speak the word. Why? Because they are so busied in their personal affairs that they will not give time to public affairs. They will say "God speed" to the reformer, and that is the last of it. They wish the city was orderly and law-observing; but for them to give, individually, a day or a dollar to make it so is out of the question.

*Fourth.* The influence of partisan politics is a direct agency in sustaining the whisky colleges, and in staying the enforcement of the laws against them. The men whom both parties send to the legislature at Albany are nominated in these nurseries of crime. There the rank and file of voters congregate. As respectable citizens refuse to take part in polities and lift them to a plane of virtue, the candidates for place and power resort to the lowest characters and their correspondingly low haunts, to obtain their votes. Bargaining and bribery form the warp and woof of this style of political goods. Crime and its punishment are not the themes these statesmen love to ponder; but, rather, the means and plunder of a party victory. Before we can improve the moral aspect of New York, we must see our good men endowed with public spirit, and votes withheld from every candidate, however "straight" his nomination, who has a doubtful character.

*Fifth.* The dilatoriness of officials in performing the functions for which nominally they were elected, and for which actually they are paid, is an evil closely connected with the last cause mentioned. If a party end is to be gained by delay, officials know well how to be polite and put you off. When most of the aldermen of the city are keepers of groggeries, can officials afford to be very prompt in attending to excise cases? Is it not natural in such circumstances for policemen to "not

see" it, and for police justices to find a flaw in the evidence, and district attorneys to have the calendar too full to put the case on? How easy it is to worry out a complainant with postponements, or, still better, to let the accused go off on a hundred dollars straw bail and to lock up the complainant in the House of Detention! The whole executive of the city is bound up indissolubly with the rum interests, and therefore cannot act honestly against either the groggeries or the crime they generate. Delays in execution of law spring chiefly from this cause, and not from any necessity in crowded calendar or deficient evidence.

We have now succinctly given the causes (all closely related) of crime in the city of New York. We may add that, while these causes exist and crime is encouraged, yet the grosser forms of crime, such as murder and burglary, are generally met by a prompt and vigorous action on the part of all the executive authorities. There is in the public mind a desire to punish crime, but a strange unwillingness to prevent it by the execution of the preventive laws. Judges and juries, as well as district attorneys and the police, are ready to overlook or treat lightly the offenses which bear the relation to the grosser crimes that the bud does to the flower. In this sphere of the lesser law-breaking, political intrigue and bribery have their chosen field. The officer who would not think of avoiding duty in a murder case will unhesitatingly consider a ten-dollar bill an ample reason for neglecting duty in an excise case, and the judge who would take any circumstantial evidence in a burglary case, and charge the jury to regard such evidence, will rule out all circumstantial evidence in a liquor case, and clear the party who has sold the whisky illegally, because the witnesses did not themselves drink the whisky! This is the common rule in all the New York courts.

This method of procedure, besides being intrinsically wrong and base, shows an utter failure of moral perception on the part of the public authorities. They have no clear and broad view of the character and connections of crime. The man who sold the whisky to the habitual drunkard is to be let off under some technical excuse or with a trifling fine, but the drunkard inflamed by this man's whisky, when he has gone home and cut his wife's throat, is to be hanged. This is the sage discrimination of our magistrates. Moreover, these men determine what laws they will enforce and what laws they will not enforce. They make themselves practically a legislature above the legislature.

Some of the facts connected with this loose criminal system (for it is a system) are ludicrous, as well as shameful. For example, a policeman is forbidden by the rules of the commissioners to enter any liquor-saloon, or to touch any liquor. The courts then rule that only those who have entered a liquor-saloon, and tasted the liquor, can give evidence. Consequently, the policemen of the city, who are appointed to watch over the interests of the city, and to detect and arrest law-breakers, are entirely precluded from ever detecting or arresting an illegal whisky-seller. The entire executive arm of the city is paralyzed as respects the vast evil of illegal liquor-selling, and that by a well-understood systematic arrangement on the part of the authorities. The policeman, placed under this system, is speedily demoralized. If he should innocently report a liquor-saloon as a suspicious place, he would be reprimanded by the captain, or sent to another precinct. So he soon learns to keep his mouth shut on such subjects, and ere long he knows how to stand outside the liquor-saloon, and drink off the glass which the bar-keeper slyly hands him.

If a company of citizens, at a great sacrifice of time and money, determine to prosecute any particular case, they meet with impediments from the beginning to the end. As we have seen, if the liquor is not tasted, the evidence is thrown out; if the liquor is tasted, then the taster is a miserable detective, a tempter to law-breaking, and such a man's evidence ought to go for nothing. If, however, after every form of delay and quirk, the case is at last proved, then the district attorney has his chance at worrying out the patience of the complainant, and months may elapse before an indictment is made, and the case brought into the final court. At length, when the trial actually takes place, every trick is used to get a liquor-loving jury, who will decide, not according to the evidence, but according to their sympathies. If the case successfully passes this ordeal, and the man is convicted, he is usually fined a few dollars, which he takes out of his vest pocket, and then goes back to his bar to do it all over again. If, after much reasoning with the judges to show them that fines are of no value in stopping these illegal procedures, the sentence is to a month's imprisonment, then you will find the sheriff, instead of taking his prisoner to the penitentiary, where striped clothes and shaved head would have been his lot, kindly permitting him to remain at the city prison, where he need

not afflict his person, but may enjoy his *otium* with cigars. These are the pleasant experiences of citizens who try to see law enforced against the will of the authorities. Now, it may be asked by the reader, what are the remedies that should be applied to this civic disease? Perhaps an experience of some years in the midst of this evil may qualify us to answer the question, and we commend the answer to the citizens of all large cities.

*First.* Let the city's politics be separated from the country's politics. Let the question in the city be one of personal fitness, by high moral qualities, for the official station. This may be begun by a man boldly voting for the nominee of the opposite party where he is manifestly the candidate of higher moral character. When many will do this, it can be made a custom, and politicians will learn not to rely on their party lines in our city affairs. Let the newspapers in favor of public morals speak out for this independent style of city voting for local magistrates. This will be the death of "machines," and all the corruption they manufacture. It will teach parties to vie with each other in nominating high-minded men, and the city would no more be disgraced by putting low rum-sellers and ignorant rowdies into places of trust and responsibility.

*Second.* Let every citizen take personal interest in the city's welfare. Each citizen should be willing to give both time and money to the common welfare. His very citizenship, with all that it is worth, makes him a debtor to the city so far forth as to give a watchful eye and a helping hand to the enforcement of law. It is a small type of man that says, "I pay my taxes and that is enough," and that thus offers to his city only his compulsory aid. Where is the voluntary aid that our city has a moral right to look for? Let a citizen, when he sees a law broken, take the trouble to make a complaint and appear as witness, even though it take several hours of his time from his business or his pleasures. Let him see that his own neighborhood is kept free from pollution. Let him encourage others to do likewise, and let him contribute to any approved organization which has for its object the enforcement of law. And when election day arrives, let him see to it that nothing prevents him from casting his vote, and that only for honest men.

*Third.* Let each community organize a Society for the Prevention of Crime, which, composed of well-known and trusted citizens, shall have the confidence of the community, and which shall use

all diligence to see that the laws are enforced, and that the officers of the law who fail to do their duty are exposed. In every truly democratic community such a vigilance committee (in its literal and simple meaning) should be found, doing nothing in secret, nor acting in the slightest degree *extra leges*, but letting bad officers know that they are watched, and encouraging good officers, who too often now are forced into a timid position by their evil colleagues. The moral power of a community can thus be concentrated, and be made irresistible.

When a citizen looks after a particular disorder, reports it to the authorities, and follows it up with such attention as will help the officers of justice to procure evidence and obtain conviction, right-minded and upright officers always commend the act, and thank the citizen for giving time and energy to assist them in establishing the order of the city. In like manner, a society which simply helps the officers of the law to detect and punish crime (and so prevent crime) will always be gratefully appreciated by upright officials who have the city's interest at heart. The talk of collusion, interference, officiousness, irresponsible power is found to emanate always from the rogues, who see in the vigilance committee a formidable enemy. From the same source comes the cry of extreme morality against detectives as wicked tempters. The law-breakers are greatly concerned lest the morality of the community should be injured by these volunteer societies. The same virtuous law-breakers declare the registering of the names of those who frequent dens of infamy to be a fearful infringement upon personal liberty. These illegal houses are under the ban of the law, and accordingly should be exposed, but it is a crime in the eyes of these critics of Law and Order societies to expose those who, by their constant custom, maintain these sinks of lawlessness and vice. That such nonsense should be soberly considered for a moment by the respectable journals is a reflection on their perspicacity. Every right movement is capable of being perverted in the details of its application. Every officer of the city may levy blackmail. We would not therefore abolish offices, but punish the particular offenders. So a society's agents may prove false, and use blackmailing threats, without affecting the importance of the society's functions. These individual cases of wrong-doing will be found in all things human, but it is only the illogical or the designing who can make the destruction of the society a necessary *sequitur* from this prem-

ise. Surely no just reason can be assigned why, when a house of ill-fame is broken up,—a house that has been a festering moral sore in the neighborhood,—the public record of the event should not contain the names of A, B, and C, who were found in it as parts of its iniquity. An outcry against this seems to come from the editors, and others who have personal reasons for a profound silence on the part of witnesses on this head. Such a record is no more blackmailing than it is slander. It is a truthful record of a fact in police duty which the public ought to know. One might just as righteously object to the publication of the names of the receivers of stolen goods. It is high time such squeamishness should give way to common sense and the demands of the public good.

We have pointed out three remedies for our civic disease. We do not believe they would prove a perfect cure; but we are sure they would reduce the amount of crime to very small proportions. Some improvements in our laws would greatly help the work of a true reform. Laws that would limit the discretion of excise commissioners, district attorneys, and judges would be most wholesome, and would make justice more certain; for now the uncertainty of punishment adequate to the crime or misdemeanor weakens the force of law. Take away from excise commissioners the power to determine what applicant has a good moral character, by making twenty of his immediate neighbors responsible for the decision; take away the power of the district attorney to postpone excise cases and other cases of (supposed) petty offenses, by setting apart certain days of each month exclusively for such cases; take away the power of judges to let off a defiant law-breaker with a nominal fine, by making imprisonment the only punishment for a second offense, and you will have done much to make your reform feasible. The law might, also, rightly allow the complainant's expenses to be paid out of the fine, on conviction; for it is hardly fair for a citizen of public spirit to consume his time and attention on a case of law-breaking, and then have to pay out of his own pocket the cost of his philanthropic and patriotic work. A law that would limit the number of places where liquor is sold by the glass, and reduce the eight thousand in New York to one thousand, would be of advantage in many respects, but chiefly that it would permit the officials of the city to have complete surveillance over these dangerous sources of crime. The great number now baffle all watching.

If our philosophy be right, the treatment of the breach of the excise laws should be most stern and severe. The places where crime is hatched should receive special attention, and every item of the law be fully and faithfully enforced. Instead of this, we find that just here the law is a practical nullity, except as a vigilance committee presses it in some particular instances. The police patrolmen, the roundsmen, the sergeants, the captains, the inspectors, the superintendent, and the four police commissioners, all know that every rum-bar on Broadway and Bowery is open on Sunday, directly against the law. They see the lights within, they hear the clinking of glasses and shouts of revelry, and they observe the *habitues* of the places going in by the back door ; and yet these guardians of the city and sworn executors of the law will not lift a finger to stop this lawlessness. We have already considered the reasons why they will not. We mention the fact again, in order to impress upon our readers the importance of effecting a revolution in a public opinion which connives at such neglect of duty, and of bringing these manufactories of crime into the foreground for regulation and the exact enforcement of law.

We have taken New York City as our text, because of that city we have a thorough and accurate knowledge ; but the principles, as well as the facts, will doubtless apply to all the large cities of our country, and hence our article, we trust, will not have a merely local interest or value. We have not used rhetorical appeals, or spread before our readers heart-rending pictures of vice and crime. We wish to arouse something deeper than emotion or sentiment. We wish to convince the reason and establish a firm basis of principle, from which systematic action may be expected to grow. The appeal is to the common sense of citizens. We have no patent theory, or radical measure of moral reform to propose ; but ask our fellow-citizens to take time to consider this great fundamental question of crime and punishment in the community, to see what their duty is in the premises, and TO DO IT.

HOWARD CROSBY.